

**DEPARTMENT OF STATE REVENUE
REVENUE RULING #ST 96-07
SEPTEMBER 18, 1996**

NOTICE: Under IC 422-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax Application To Barium Sulfate

Authority: IC 6-2.5-5-19; Rule 45 IAC 2.2-5-35

The taxpayer requests the Department to Rule on the application of sales/use tax to its sale of barium sulfate to for profit hospitals and organizations.

STATEMENT OF FACTS

The taxpayer sells barium sulfate to for profit hospitals and organizations in Indiana. Barium sulfate is a pharmaceutical contrast agent used in X-ray studies of the gastrointestinal tract. It is regulated as a drug by the United States Food & Drug Administration and is available to patients only by prescription.

DISCUSSION

Indiana Code 6-2.5-5-19(f) provides an exemption from tax for the sales of drugs, insulin, oxygen, blood, and blood plasma under the following conditions. The purchaser must be a practitioner licensed to prescribe, dispense and administer drugs to human beings or animals, and the purchaser buys the item (1) for direct consumption in his practice, or (2) resale to a patient that the practitioner is treating.

Because the hospitals have licensed practitioners on staff and the barium sulfate will be utilized only upon a prescription issued to the patient by a licensed practitioner, the barium sulfate is considered to be sold to a licensed practitioner. In addition, the drug is bought for direct consumption in the practitioner's practice or resold to a patient that the practitioner is treating.

RULING

The sale of barium sulfate to for profits hospitals and other organizations that have licensed practitioners on staff will qualify for an exemption for sales/use tax because the item can only be used under a prescription issued by a licensed practitioner.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Indiana Department of Revenue